



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/168294

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Manitowoc County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 30, 2015, at Manitowoc, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's FS benefits effective September 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Tanya Anderson

Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. On June 3, 2015, the agency issued a notice informing the Petitioner of his enrollment in the FSET program with time limited FS benefits beginning June, 2015.

3. On June 3, 2015, the agency issued a notice informing the Petitioner that his initial orientation and enrollment appointment for FSET was June 11, 2015. Petitioner attended the orientation appointment, signed the participation agreement and was enrolled in the FSET program.
4. Petitioner's FSET Employability Plan developed on June 11, 2015 required him to engage in 9 hours/week of employment search, 9 hours/week of career planning and 2 hours/week of job readiness. Petitioner also received a gas voucher for \$20.
5. On June 16, 2015, the agency issued a notice to the Petitioner with a copy of his Employment Plan. The notice advised the Petitioner that he must sign and return it to the agency. It also advised him that if there was any incorrect information in the plan, he must contact the FSET worker.
6. On June 26, 2015, the Petitioner submitted a job search log with 10 hours of job search activities recorded between June 22, 2015 – June 26, 2015. Petitioner also received credit in June, 2015 for 10 hours of career planning and 18 hours of employment search.
7. For July, 2015, the Petitioner submitted no logs demonstrating participation in employment activities. Petitioner went to the agency on July 6, 2015 and received a gas voucher.
8. On August 10, 2015, the agency issued an appointment notice to the Petitioner informing him of an appointment for a review on August 18, 2015. Petitioner did not appear for the appointment.
9. On August 19, 2015, the agency issued an appointment notice to the Petitioner informing him of an appointment for a review on August 25, 2015. Petitioner attended the appointment. Petitioner's employment plan was updated to include 9 hours of employment search, 8 hours of school as a part-time student and 3 hours of career advancement activities.
10. On August 19, 2015, the agency issued a notice of decision to the Petitioner informing him that his FS benefits would end effective September 1, 2015 due to using three time limited benefit months.
11. On August 25, 2015, the Petitioner submitted job search logs for the period of August 17 – 24, 2015 with 11 hours of job search recorded. No employer information was submitted.
12. On August 28, 2015, the Petitioner submitted a log with 14 hours of employment activities recorded for the period of August 25 – 28, 2015. No other logs for August, 2015 were submitted.
13. Petitioner's total participation in FSET activities for August, 2015 was 25 hours.
14. On August 25, 2015, the Petitioner filed a request for a hearing with the Division of Hearings and Appeals.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement.

As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat. §49.79(10), which required FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24.

On June 11, 2014 the Department of Health Services (DHS) issued Operations Memo #14-25 which outlined Wisconsin's policy and instruction for applying Time-Limited FoodShare Benefits (TLBs) to ABAWDs. Operations Memo #14-25, available online at <https://www.dhs.wisconsin.gov/dhcaa/memos/14-25amendedv3.pdf>. As explained in that Memo,

effective July 1, 2014, FS applicants and members residing in Kenosha, Racine, and Walworth counties were subject to the new eligibility rules which determine if a person is an ABAWD subject to time-limited FS benefits. Id.

Persons with a Time Limited FS Referral are eligible for 3 months of time limited FS benefits in a 36 month period unless they meet the FS work requirement. There are three ways to meet the requirement:

- ☐ Working at least 80 hours/month
- ☐ Taking part in an allowable work program such as FSET, W-2 or some WIA programs for at least 80 hours/month, or
- ☐ Both working and taking part in an allowable program for a combined total of at least 80 hours/month.

FSET Handbook, §6.3.2.2.

At the hearing, the Petitioner did not dispute that he did not work 80 hours/month for the period of June – August, 2015 or that he did not take part in allowable work programs for 80 hours/month or that he did not work and take part in allowable programs for a combined total of 80 hours/month. He testified that he did not understand that the FSET program is a self-directed program. He believed that he would receive assignments for activities or jobs from the agency.

While I recognize that the Petitioner did seem to make a good faith effort to engage in some activities, the facts clearly demonstrate that he did not meet the FSET requirements. Therefore, I must conclude that the agency properly terminated his FS benefits effective September 1, 2015 after he received three months of time-limited FS benefits.

CONCLUSIONS OF LAW

The agency properly terminated Petitioner's FS benefits effective September 1, 2015 after he received three months of time-limited FS benefits.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of October, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 21, 2015.

Manitowoc County Department of Human Services
Division of Health Care Access and Accountability